

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DONNA GARCIA,

No. C-11-1253 EMC

Plaintiff,

v.


ORDER TO SHOW CAUSERESURGENT CAPITAL SERVICES, LP, *et al.*,Defendants.

Defendants' motion for summary judgment came on for hearing on March 23, 2012. In its submissions to the Court and at oral argument, Defendant Brachfeld's counsel represented to the Court that it was retained to collect a debt Plaintiff owed stemming from her purchase of a freezer from Sears in 2004. *See* Birdt Decl., Docket No. 79, ¶ 7. However, counsel has failed to provide **any** factual basis to demonstrate that Brachfeld was indeed retained to collect said debt. Indeed, counsel represented at oral argument that Plaintiff's Sears receipt provided the necessary connection between her freezer purchase and Brachfeld's debt collection activities. However, the only evidence in the record indicates that Plaintiff's freezer purchase of \$639.86 does not match the \$921.83 due on the debt for which Defendants state they were trying to collect. *Compare id.* Ex. C (2004 Sears freezer purchase for \$639.86), *with* Wilcox Decl., Docket No. 85, Ex. 8 (Brachfeld's paperless notes indicating that the principal debt incurred was \$921.83). The Court is unable to locate any evidence in the record to support counsel's claim that Brachfeld's debt collection activities are related to the freezer purchase.

1 Accordingly, Defendant Brachfeld's counsel is ordered to show cause why counsel should
2 not be sanctioned for making factual contentions without evidentiary support as required by Rule
3 11(b). Counsel is directed to provide the Court with any and all evidence supporting its contention
4 that "Brachfeld was hired to collect the consumer credit account opened by Plaintiff and which she
5 used to purchase the freezer, but never paid for it," Birdt Decl. ¶ 7, and its related contentions at oral
6 argument that Brachfeld's debt collection efforts stemmed from the freezer purchase. A response to
7 this order to show cause must be filed by April 13, 2012.

8
9 IT IS SO ORDERED.

10
11 Dated: April 4, 2012

12
13 
EDWARD M. CHEN
United States District Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28